

OGC Has Reviewed

Air

802W

2/524

Attn: Chief of Station [REDACTED] 25X1A6a
[REDACTED] 25X1A9a
Office of General Counsel

Administrative/Legal 25X1A9a
Reclaim for Per Diem of [REDACTED]

REFERENCE: [REDACTED] 25X1A

1. We have reviewed subject reclaim, including [REDACTED] memorandum dated 12 December 1955 giving certain facts in support of it. We have also discussed the case with the Division Administrative Officer who informed us of certain other facts which were probably not available to you. 25X1A9a

2. On the basis of the evidence presented to you in the Field and the cited Comptroller General's decision, we would agree with your tentative decision that subject has a vested right in the per diem claimed. However, investigation at Headquarters reveals certain other information pertinent to the claim and invalidating it. CSI #12-2, issued 30 December 1954, is the basis for [REDACTED] Mission memorandum 3(b), cited in the Audit Difference Statement submitted with your dispatch as the authority for denying the claim. Since the stated policy was in effect prior to the time [REDACTED] served on temporary duty at Headquarters, she was not properly authorized per diem for that period of duty. In addition, the Division Administrative Officer informs us that shortly after reporting for TDY at Headquarters, [REDACTED] was told of the Headquarters policy in regard to per diem and that she would not receive it while here with her husband. In view of this latter fact, we do not feel that [REDACTED] has even an equitable claim and, in any case, she has no vested right to the per diem claimed. 25X1X8
25X1A9a
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25X1A9a

3. In her memorandum [REDACTED] places great stress upon the "retroactivity" of the change in her per diem authorization. However, it should be noted that the effect of the change was prospective, not retroactive. She had not yet performed the temporary duty authorized in her orders when the right to per diem was eliminated by the [REDACTED] instruction. The Comptroller General in 23 C. G. 713 stated that there is no objection to prospective modification of travel orders. He also stated that travel orders may not be modified retroactively. 25X1A9a
25X1A2g

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so as to increase or decrease rights which have accrued or become fixed for travel already performed (emphasis ours). In this case the duty for which she is claiming per diem had not been performed prior to the change in her authorization and thus we think it is clearly distinguished from the situation in which the Comptroller General would allow payment.

4. The travel voucher and the Administrative Audit Difference Statement are returned per your request.

LAWRENCE R. HOUSTON
General Counsel

Att 2 - Admin Audit Diff State
Travel Voucher

25X1A9a

OGC: [REDACTED]

cc: RI (Yellow)

EE/Admin

✓ OGC - Return to 221 East *Pay + Allow - "*
(S) Chron

LAWRENCE R. HOUSTON
General Counsel
(Releasing Officer)

/S)
LAWRENCE R. HOUSTON
General Counsel
(Authenticating Officer)

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